

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RAYMOND L. SALTSMAN, JR.,)	
)	
Plaintiff,)	
)	8:05CV238
vs.)	
)	ORDER
VALMONT INDUSTRIES, INC.,)	
)	
Defendant.)	

This matter is before the court by consent of the parties on defendant's Motion to Compel Discovery [45]. No response to the motion was filed. Moving counsel has substantially complied with the requirements of NECivR 7.1(i).¹

Defendant first sought the production of plaintiff's tax records in May 2006. Plaintiff did not have copies of the records, and it is necessary to obtain them from the Internal Revenue Service. Defendant now seeks an order compelling the production plaintiff's tax records beginning on January 1, 2001 through the present time or, in the alternative, a properly completed Form 4056 (Request for Copy of Tax Return).

The record shows that plaintiff previously completed a Form 4056 which was submitted to the IRS by defense counsel in June 2006; however, the IRS returned the item in October 2006, refusing to produce the documents because the Form 4056 "was incomplete or contained incorrect information." In November and December 2006, defense counsel requested that plaintiff provide a corrected form. To date, plaintiff has neither produced the documents nor delivered a corrected Form 4056 to defense counsel.

The court finds that the documents requested are relevant to the plaintiff's claims and that defendant's Motion [45] should be granted.

¹NECivR 7.1(i) requires "personal consultation" among counsel, i.e., "person-to-person conversation, either in the physical presence of each counsel or on the telephone." Considering the nature and duration of this particular matter, I find defense counsel's written requests satisfy this requirement.

IT IS ORDERED that defendant's Motion to Compel Discovery [45] is granted, as follows:

1. The plaintiff is given until and including **February 21, 2007** to respond to defendant's Request for Production of Documents No. 5 by providing plaintiff's tax records or by providing a properly completed Form 4056, and to file a **certificate of service** for the response pursuant to NECivR 34.1(b).

2. No later than **March 1, 2007**, plaintiff shall electronically file a "Response" to this order, showing cause why the defendant should not be awarded reasonable costs and attorney's fees incurred in bringing this motion to compel, in accordance with Fed. R. Civ. P. 37(a)(4)(A).

DATED February 12, 2007.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**